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HUMAN RIGHTS COMMITTEE

Fifty-first session

SUMMARY RECORD OF THE 1320th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 July 1994, at 10.30 a.m.

Chairman: Mr. ANDO

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.94-17421 (E)

The meeting was called to order at 10.55 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fifty-first session of the Human Rights Committee. He welcomed Mr. José Ayala Lasso, High Commissioner for Human Rights, and noted with pleasure the presence in the meeting room of Mr. Houshmand, former Chief of the Implementation Branch, Centre for Human Rights.

STATEMENT BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

2. Mr. AYALA LASSO (High Commissioner for Human Rights) commended the pioneering role and exemplary achievements of the Committee, with which - as with the other human rights treaty bodies - he intended to establish harmonious and fruitful working relations in the exercise of his own important and delicate mission. Any ideas or suggestions about how best the treaty bodies could support the mandate of the High Commissioner, particularly his efforts to ensure compliance with obligations undertaken in ratifying or acceding to international human rights instruments, would be most welcome.

3. He underscored the importance of recent initiatives by the Committee to promote more effective implementation of the Covenant, notably through the practice of issuing a comprehensive set of final comments after the consideration of each State party's report, and of its recently adopted general comment on the rights of persons belonging to minorities. Equally impressive had been the Committee's work under the First Optional Protocol, which had secured some 77 ratifications of that instrument, as well as the development, over the years, of jurisprudence on substantive provisions of the Covenant that was increasingly resorted to in States parties. Efforts to strengthen the legal force of the Committee's decisions by such means as the follow-up procedure would undoubtedly bear fruit.

4. Discrimination, injustice and flagrant violations of fundamental human rights - including the most basic right of all, the right to life - were still rife, but he was convinced that significant improvements in the situation could be achieved through commitment and the determination to cooperate, especially in the promotion, acceptance and implementation of the Covenant and its Optional Protocols. For his part, he intended to broaden and expand the dissemination of information about the Covenant and the Committee's activities, and to make a special point in his contacts with States of urging them to ratify the Covenant and the Optional Protocols. It was also his intention to accelerate the provision of technical assistance and advisory services to States that required help in removing obstacles to ratification.

5. The creation of a system of effective implementation of the recommendations of the treaty bodies was imperative, and he considered it to be one of the basic components of his mandate. He pledged himself to work closely with the Committee in the pursuit of that goal.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/97)

6. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (item 2 of the agenda)

7. The CHAIRMAN invited the Committee to consider the proposed programme of work, which was before it in an informal document.

8. The proposed programme of work was adopted.

9. The CHAIRMAN invited the Chairperson of the Working Group on Article 40 to make a brief oral report.

10. Mrs. EVATT (Chairperson of the Working Group on Article 40) said that the Group, comprising Mr. Aguilar Urbina, Rapporteur, Mr. El Shafei, Mr. Wennergren and herself, had prepared draft lists of issues concerning periodic reports by Togo, Italy and Cyprus, scheduled for consideration at the current session; a list concerning the periodic report by Jordan - also due to be taken up - had been prepared at the previous session. In addition, the Group had considered a draft general comment relating to article 25 of the Covenant and was on the point of finalizing its recommendation in that respect; she hoped that sufficient time would be available for examination of the draft in plenary. The Group had also examined, at the Committee's request, a number of issues related to methods of work: the format of the annual report to the General Assembly; the content and layout of the final comments for inclusion in that report; the matter of overdue reports and reports by States which appeared to be facing emergencies; the question of preparing lists of issues further in advance, in order that States might be given more notice of such lists; the integration of women's rights in the work of the treaty bodies and relevant recommendations by the World Conference on Human Rights and the General Assembly; computerization; and the question of the title of the official records of the Committee. A written report on the Working Group's deliberations would be distributed shortly.

11. Mr. HERNDL and Mr. POCAR urged that the report of the Working Group should be distributed in time for adequate discussion of its contents, more especially the recommendations concerning the format of the annual report and related organizational issues.

12. Mr. AGUILAR URBINA (Rapporteur of the Working Group on Article 40) summarized the recommendations prepared by the Group in connection with the format of the annual report; he pointed out that they largely reflected guidelines already approved by the Committee, notably in regard to discontinuation of the practice of including summaries of the consideration of States parties' reports, and to the presentation of the Committee's views on communications.

13. Mrs. EVATT (Chairperson of the Working Group on Article 40) reiterated that the Group's recommendations on the matters to which she and the Rapporteur had alluded would be made available in writing to members of the Committee as soon as the Group had completed its deliberations, which she expected to be in a few hours' time.

14. The CHAIRMAN said that everything possible would be done to ensure that the plenary had sufficient time to consider conclusions or recommendations by the Working Group that required formal acknowledgement or endorsement.

15. He invited the Chairperson/Rapporteur of the Working Group on Communications to make a brief oral report.

16. Mr. BRUNI CELLI (Chairperson/Rapporteur of the Working Group on Communications) said that the Group, consisting of Mr. Dimitrijevic, Mr. Ndiaye, Mr. Mavrommatis, Mr. Sadi and himself, had held five meetings from 28 to 30 June 1994 to consider communications. In the course of its deliberations the Group had adopted 15 recommendations in connection with article 5, paragraph 4, of the First Optional Protocol; it had also prepared a considerable number of draft views relating to different countries. The Group had further adopted seven decisions on admissibility and had recommended that eight communications be declared inadmissible, while in two cases it had concluded that additional information should be sought from the parties concerned. It had not been possible to discuss recommendations relating to three specific sets of draft views, pending their publication in all working languages. He therefore suggested that time should be made available for a discussion of those draft texts.

17. The CHAIRMAN invited the Chief of the Communications Section of the Centre for Human Rights to provide additional clarifications.

18. Mr. MOLLER (Chief, Communications Section, Centre for Human Rights) said that, while he welcomed the fact that an additional week's meeting time had been made available to expedite the work of the Committee in connection with the Optional Protocol, he felt it necessary to explain the particular difficulties currently facing the Centre for Human Rights. In the past few months, the Centre had focused its efforts on implementing decisions adopted at the Committee's previous session and preparing documentation for the current session, with the result that routine work in connection with the Optional Protocol had virtually ground to a halt. At the Centre there were currently approximately 600 communications from a variety of sources relating to new and pending cases which urgently required attention. Moreover, members would have noticed the dwindling number of fact sheets, once considered a vital tool for their work, and the absence of new lists of communications.

19. Referring to suggestions made to change the current format of annual reports, he stressed the need to be realistic regarding the timely publication of selected decisions. He recalled that, since the Committee had decided at its twelfth session that selected decisions under the Optional Protocol should be prepared on an annual basis, only two volumes had been issued - in other words, approximately one volume every five years. Moreover, the repeated requests for additional resources that would provide the Centre with the necessary staff to handle such work had so far proved unsuccessful. Meanwhile, the workload in other areas continued to increase, resulting in the deteriorating performance of the Centre, as noted by the Committee in its recent reports. Accordingly, any change in the format of the annual report would render the timely publication of selected decisions even more difficult. Lastly, in view of the very short time available between the Committee's

summer and autumn sessions and the need to clear the current backlog of correspondence at the Centre, he urged members to be understanding with regard to the preparation of documentation for the forthcoming session.

20. Mr. FRANCIS, sympathizing with Mr. Moller's remarks, said that the shortage of staff at the Centre had long been a matter of great concern to him. While he welcomed the appointment of a High Commissioner for Human Rights, he stressed that there seemed little point in laying greater emphasis on human rights issues unless the necessary support facilities were provided. He hoped that members would give such matters due consideration at the current session.

21. Mr. POCAR said he shared the concerns expressed regarding the shortage of staff at the Centre for Human Rights and its direct consequences for the work of the Committee and hoped that a suitable solution could be found. As to Mr. Moller's more specific comments, he was somewhat sceptical about the idea of publishing selected decisions, particularly since the annual report was the only document which provided information on the decisions in question. Furthermore, even if the volumes were updated, he wondered whether they would suit the purposes of the Committee. Such matters must be taken up in greater detail by the Committee in due course.

22. Mr. HERNDL said that, if anything, Mr. Moller had understated the problems facing the Centre for Human Rights, which must be properly addressed by the Committee at the current session. In particular, the vital importance of processing communications received under the Optional Protocol was not duly reflected in the Centre's activities. The Committee must impress on the administration of the Centre the need to accord an appropriate level of priority to such work in future. He therefore suggested that the matter should be discussed in detail with a view to formulating an appropriate recommendation on the necessity of strengthening the Communications Section of the Centre for Human Rights, in particular through the recruitment of staff with appropriate legal training.

23. The CHAIRMAN said that the Working Group on Article 40 would hold its final meeting that afternoon and that its report would be available, in the English version only, the following day. In order to allow time for the report to be translated into French and Spanish, he suggested that its consideration should be deferred until the end of the week.

24. It was so decided.

25. The CHAIRMAN recalled that the list of issues relating to the third periodic report of Jordan (CCPR/C/76/Add.1) had been adopted by the Committee at its previous session. Since that list had subsequently been forwarded to the Government of Jordan through its Mission, there was no need for the Committee to discuss the matter any further.

26. He invited the Committee to consider and adopt the draft lists of issues relating to the periodic reports of Togo, Italy and Cyprus.

List of issues to be taken up in connection with the consideration of the second periodic report of Togo (CCPR/C/63/Add.2)

Section I: Constitutional and legal framework within which the Covenant is implemented, state of emergency, non-discrimination, equality of the sexes, protection of the family, right to take part in the conduct of public affairs, and rights of persons belonging to minorities (arts. 2, 3, 4, 23, 24, 25, 26 and 27)

27. Section I was adopted.

Section II: Right to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 9, 10 and 14)

28. Mr. POCAR said that the question raised in paragraph (a), which might well refer to an undeclared state of emergency, seemed to overlap with the question raised in section I (h). He wondered whether the two questions might be combined and sought further clarification on their intent.

29. Mr. SADI wondered whether the question in paragraph (f) was really necessary, in view of the fact that a standing committee on torture already existed.

30. Mr. PRADO VALLEJO suggested that a specific reference to the relevant United Nations rules concerning the use of firearms by law enforcement officials should be included in paragraph (c).

31. Mrs. EVATT, replying to Mr. Pocar's query, pointed out that the question raised in section I (h) referred to the precise constitutional and legal provisions invoked in the absence of any specific safeguards, whereas the question in section II (a) was quite different, since it focused on the more negative aspects of such situations. Mr. Sadi's query concerning paragraph (f) had also been raised by some members of the Working Group, which had agreed that the matter should be referred to the Committee for a decision. She endorsed Mr. Prado Vallejo's suggestion for the inclusion of a specific reference to the relevant United Nations rules under paragraph (c).

32. Mr. WENNERGREN, while welcoming Mr. Prado Vallejo's suggestion, stressed the need for the correct title of the provisions concerned to be used when incorporating the proposed amendment.

33. The CHAIRMAN said that the Committee should make it quite clear to the Togolese delegation that it need not repeat any information already provided in connection with section I (h) when replying to the question in section II (a). He noted that the Committee was in favour of retaining paragraph (f) and amending paragraph (c) as suggested by Mr. Prado Vallejo. The Secretariat would look into the matter and include an appropriate reference, as requested.

34. Section II, as amended, was adopted.

Section III: Freedom of movement and expulsion of aliens, right to privacy, freedom of opinion and expression, and freedom of association and assembly (arts. 12, 13, 17, 19, 20, 21 and 22)

35. Mrs. EVATT proposed that the heading of the section should include a reference to freedom of religion, since paragraph (b) of the section was concerned with the question of religious denominations.

36. It was so decided.

37. Section III, as amended, was adopted.

38. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the third periodic report of Italy (CCPR/C/64/Add.8)
Section I: Constitutional and legal framework within which the Covenant is implemented; non-discrimination; equality of the sexes and protection of family and children; right to participate in the conduct of public affairs; rights of persons belonging to minorities (arts. 2, 3, 4, 23, 24, 25, 26 and 27)

39. Mr. SADI, referring to paragraph (b), stressed the need for the Committee to make it clear that it had already considered the situation in question and therefore merely wished to have updated information.

40. The CHAIRMAN suggested that the point raised by Mr. Sadi might be dealt with by inserting the word "new" between the words "any" and "factors".

41. Mr. AGUILAR URBINA said that, rather than using the word "new", it would be preferable to add at the end of the sentence the words "during the period under review".

42. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the amendment proposed by Mr. Aguilar Urbina.

43. It was so decided.

44. Section I, as amended, was adopted.

Section II: Right to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 8, 9, 10 and 14)

45. Mr. BAN said that the first part of paragraph (h) was satisfactory, but that the second part, relating to the possible negative effect on criminal and civil procedures, was unclear. He therefore thought that that part of the paragraph should be redrafted.

46. Mr. WENNERGREN said the Working Group had found that the reform had been profound and had thought that it might have had some negative effect.

47. Mr. SADI said, with regard to paragraph (a), that the Committee wished to have information concerning any official plans to ratify the Second Optional Protocol to the Covenant with a view to the abolition of the death penalty.

48. With respect to paragraph (c), he said that the complaints referred to were official in nature.

49. With regard to paragraph (i), it might be appropriate to add the words "and its conformity with the Covenant".

50. Mr. HERNDL suggested that paragraph (h) should be divided into two sentences, the first ending with the words "legal proceedings". The second sentence should be redrafted to read: "What are the overall effects on criminal and civil procedures of the reform?".

51. If necessary, paragraph (a) could be amended to read: "Does the Government intend in the foreseeable future to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty (see para. 27 of the report)?". However, he preferred the existing wording of the paragraph.

52. After an exchange of views in which Mr. AGUILAR URBINO, Mr. PRADO VALLEJO and Mrs. EVATT took part, the CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt Mr. Herndl's proposed amendments to paragraphs (a) and (h).

53. It was so decided.

54. Section II, as amended, was adopted.

Section III: Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association (arts. 12, 13, 17, 18 and 19).

55. Section III was adopted.

56. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the second periodic report of Cyprus (CCPR/C/32/Add.18)

Section I: Constitutional and legal framework within which the Covenant is implemented: non-discrimination: equality of the sexes: protection of family and children: and rights of persons belonging to minorities (arts. 2, 3, 4, 23, 24, 26 and 27)

57. Mr. BRUNI CELLI wondered whether, in view of the special situation of Cyprus, which had part of its territory occupied, the Committee should not look into the role of the State party in protecting the human rights of its nationals in the occupied area. Had the State party taken any action in that regard? According to information received, there were serious problems, including, for example, the detention of women and children. On the occasion

of the recent meeting of the Inter-Parliamentary Union in Cyprus, there had been demonstrations condemning the grave human rights violations that had occurred in the occupied area.

58. Mr. PRADO VALLEJO, referring to paragraph (f), said the question "How far has the public been informed of the Human Rights Committee's consideration of the report?" was a good one, and should be included in all lists of issues to be taken up with States parties.

59. Mr. SADI, referring to question (h), suggested that the phrase "the right to take nationality from their mother" should be amended to read "the right to acquire the nationality of their mother".

60. Mrs. EVATT considered that the wording "the right to acquire nationality through their mother" was preferable.

61. In reply to the point raised by Mr. Bruni Celli, she said the view of the Working Group had been that the Government of Cyprus could concern itself only with the rights and freedoms of people within its actual jurisdiction, and that it had no power in regard to the rights of those living in the occupied part of the country. Because that was the general understanding, and because virtually no United Nations Member States recognized the Turkish occupation, there was silence on the issue, and it was difficult to know how it should be dealt with. The occupation was one of the "factors and difficulties" mentioned in the core document (HRI/CORE/1/Add.28).

62. The CHAIRMAN recalled that, during consideration of the report of the Federal Republic of Yugoslavia, the Committee had in fact asked questions about how the Government was trying to ensure implementation of the Covenant in parts of the country not covered by its authority. However, the situation in Cyprus was different, in that the United Nations viewed the occupation as unlawful. Virtually no State had recognized the regime that was in de facto control of the occupied part of the territory.

63. Mr. BRUNI CELLI said that, without prejudice to any dialogue the Committee might have with the delegation of Cyprus, he believed that, if only for reasons of precedent, some mention should be made of the matter in the list of issues. While it was true that the Government of Cyprus could not be held responsible for the human rights situation in the occupied area, some steps needed to be taken to obtain information about it. If the Committee could not ask the Government of Turkey for that information, in view of the fact that its occupation of the area was not recognized by the United Nations, it would have somehow to obtain it from the Government of Cyprus.

64. Mr. WENNERGREN pointed out that, if the Committee wished to raise the question of human rights in the occupied area, it should do so with reference to paragraph 13 of the second periodic report of Cyprus (CCPR/C/32/Add.18), which stated: "As a result of the occupation of approximately 37 per cent of the territory of the Republic of Cyprus by the armed forces of Turkey, the Government of the Republic is prevented from exercising its authority over and assuring respect of human rights in the occupied area. Therefore, the information given in this report concerns only persons under the effective jurisdiction of the Republic of Cyprus.".

65. Mrs. EVATT suggested that, if the Committee wished to include a question of the kind under discussion in the list of issues, it might be worded to read: "Having regard to paragraph 13 of the report, is the Government of Cyprus able to provide any information about the enjoyment of rights and freedoms under the Covenant in the occupied part of Cyprus?". However, she feared that the inclusion of such a question in the list of issues might lead to lengthy debate. It might be better to raise it orally during the session when the delegation of Cyprus was present.

66. Mr. PRADO VALLEJO said the point raised by Mr. Bruni Celli was a good one. He supported the suggestion that a specific question be put to the delegation of Cyprus on the matter.

67. Mr. POCAR also supported that approach. Since Turkey had not ratified the Covenant, it could not be asked about the situation in the occupied area. The only way the Committee could obtain information was by asking the delegation of Cyprus for it in the course of the session.

68. The CHAIRMAN said he took it the members agreed that, in order to convey the Committee's concern, a new question (i) should be added to the list of issues, along the lines suggested by Mrs. Evatt.

69. It was so decided.

70. Section I, as amended, was adopted.

Section II: Right to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 8, 9, 10 and 14)

71. Mr. PRADO VALLEJO, referring to question (b), suggested that the same formulation as that agreed for section II (c) of the list of issues to be taken up in connection with the report of Togo should be included.

72. It was so decided.

73. Mr. POCAR proposed that, in the light of question (e), reference should be made in the title of section II to article 11.

74. It was so decided.

75. Section II, as amended, was adopted.

Section III: Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association, and right to participate in the conduct of public affairs (arts. 12, 13, 17, 18, 19, 20, 21 and 22)

76. Mr. PRADO VALLEJO, referring to question (a), said the term "Government-controlled area" was inappropriate, since Cyprus was a sovereign State and as such exercised legitimate control over its own territory. Wording along the lines of "in the territory under the jurisdiction of the Government of Cyprus" would be preferable.

77. Mr. WENNERGREN proposed the wording "in the area under the effective jurisdiction of the Government of Cyprus".

78. It was so decided.

79. Section III, as amended, was adopted.

80. The list of issues as a whole, as amended, was adopted.

The meeting rose at 12.50 p.m.

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HUMAN RIGHTS COMMITTEE

Fifty-first session

SUMMARY RECORD OF THE 1321st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 July 1994, at 10 a.m.

Chairman: Mr. ANDO

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant

Third periodic report of Jordan

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GE.94-17426 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Third periodic report of Jordan (CCPR/C/76/Add.1; HRI/CORE/1/Add.18/Rev.1)

1. At the invitation of the Chairman, Mr. Abul-Ethem, Mr. Khasawneh and Mr. Ghazi El Rashdan (Jordan) took places at the Committee table.

2. The CHAIRMAN, welcoming the delegation of Jordan, said the Committee was aware of Jordan's excellent human rights record. An eminent Jordanian expert, Mr. Sadi, was a member of the Committee, and had contributed greatly to the success of its work.

3. Outlining the Committee's working procedure, he invited the delegation to begin by responding, section by section, to the questions raised in the list of issues to be taken up in connection with the consideration of the third periodic report of Jordan (CCPR/C/76/Add.1). At the end of the replies to each section, Committee members might raise oral questions of their own. Finally, in closed session, the Committee would adopt comments, which would represent an overall evaluation of the dialogue that had taken place. Those comments would be forwarded to the Government of Jordan through its Mission in Geneva.

4. Mr. ABUL-ETHEM (Jordan) said it was a great pleasure for his delegation to be attending the Committee's session to participate in discussion of Jordan's third periodic report. The Committee had become known throughout the world for its important role in monitoring the compliance of States parties with their obligations under the Covenant. Jordan had always made every effort to guarantee the human rights, and notably the civil and political rights, of all its citizens, in cooperation with the various United Nations human rights treaty bodies. He wished to express his delegation's deep regret that, due to circumstances beyond its control, it had been unable to be present at the Committee's fiftieth session, held in New York in March 1994.

5. Jordan believed that all human beings had been endowed by the Creator with rights and obligations in equal measure. Men and women were not mere biological entities, but had the faculty of reason, which enabled them to identify and to pursue goals and objectives. Men and women were also social beings, conscious of belonging to an international community and also to humanity as a whole. Jordan took the view that human rights were part of humanity's common heritage, and it was on that basis that it sought to promote the principles laid down in the Universal Declaration of Human Rights. It was prepared to cooperate fully with the Committee in the effort to achieve the greatest possible degree of enjoyment of those rights.

6. The number and nature of questions posed in the list of issues seemed to indicate that the Committee had received a false impression of the situation in Jordan, due either to lack of information or to shortcomings in the picture provided by the mass media. That seemed to be the case particularly in regard to the previous five years, during which King Hussein had inspired a return to democracy in the country. Earlier, a war which had threatened Jordan's very

existence had made it necessary to declare a state of emergency and to appoint a National Consultative Council composed of well-known and respected public figures. The situation had subsequently changed, and the King had announced the ending of the state of emergency and a return to the system of parliamentary elections. At the same time, the Government had announced a programme of economic, political and administrative reform. Political pluralism had become the rule, and all decisions were now taken on the basis of consultation between the various political elements and of cooperation between the legislative, executive and judicial branches.

7. Jordan had now become a haven of peace and stability in the region, and its political life had become a model for others, inspiring respect and even envy.

8. The CHAIRMAN invited the Jordanian delegation to respond to the questions in section I of the list of issues, which read:

"I. Constitutional and legal framework within which the Covenant is implemented; state of emergency, non-discrimination and equality of the sexes

(arts. 2 (2) and (3), 3, 4 and 26)

(a) Please clarify whether individuals can and do invoke the provisions of the Covenant directly before the Jordanian courts and illustrate how conflicts that may arise between the provisions of the Covenant and domestic law, including unwritten laws, are being resolved.

(b) Please clarify whether the Independent Administrative Tribunal and the Constitutional Court envisaged in the National Charter have already been established (see para. 51 of the core document).

(c) Has the independent body - foreseen in the National Charter - that is to modernize and update Jordanian legislation been established and, if so, please comment on its functions and activities (see para. 51 of the core document)?

(d) Please provide examples of cases in which judges may be dismissed by the Supreme Council of the Judiciary as a penalty for 'having committed offences prejudicial to their judicial integrity' (see para. 34 (a) of the report).

(e) Please clarify the positive consequences of the lifting on 7 July 1991 of the state of emergency which had been in force throughout the national territory since 1967, in particular for persons who had been and remain affected by measures taken pursuant to emergency provisions.

(f) Please clarify what rights have been derogated from during the successive states of siege as well as the actual constitutional or statutory basis for ensuring in time of emergency conformity with article 4, paragraph 2, of the Covenant. In particular, has the new

Defence Act referred to in paragraph 9 of the report been adopted and what are the safeguards and remedies available to the individual during a state of emergency?

(g) In the light of the provisions of the Martial Law Administrative Instruction No. 2 of 1989, which has revoked the competence of military courts to hear certain cases, please provide information on the current composition and competence of such courts, particularly regarding crimes and offences which remain under their jurisdiction (see para. 9 of the report).

(h) Please provide details of the activities being undertaken in Jordan to promote awareness of the provisions of the Covenant.

(i) In the light of the statement in paragraph 5 of the report that, although women played an effective role in the parliamentary elections in 1989, none of them was elected, please comment on any special factors or difficulties encountered in ensuring respect for equality between men and women."

9. Mr. ABUL-ETHEM (Jordan), replying to question (a), said that Jordan's Constitution, which was considered one of the most modern and progressive in the world, took first place in the hierarchy of legal norms. There was no incompatibility between the provisions of the Covenant and Jordanian domestic law; in the case of any such incompatibility occurring, the provisions of the Covenant would prevail, unless they were in contradiction with the Constitution. The provisions of the Covenant could be invoked directly before the Jordanian courts, although to date no one had availed himself of that possibility.

10. Judgements handed down by the Jordanian Court of Cassation were final. One such judgement, decision No. 168/91 of 6 February 1992, clearly established that the provisions of international instruments took precedence over both national and local laws.

11. Turning to question (b), he explained that the Court of Cassation had taken steps in 1992 to broaden its authority to annul administrative decisions upon appeal; it was now empowered to award compensation for injury resulting from decisions that were erroneous or ran counter to the law; it could also, upon appeal, suspend the application of any law that had the effect of impairing human rights or was otherwise deemed unconstitutional; its previously limited competence in the matter of appeals by public officials against decisions by their superiors had also been expanded. In addition, the Court was empowered to hear complaints with regard to election results. Generally speaking, and on the basis of his own considerable experience as a judge of the Court, he could affirm that no administrative decision, however legally well-founded it might appear to be, was exempt from appeal; the Court - whose rulings were immediately applicable and which commanded great respect - was a veritable bastion for the defence of the Constitution, the upholding of justice and the maintenance of the rule of law. That was only fitting in a country which had espoused democracy based on participation and political pluralism and was permeated by the King's celebrated adage that its people were the nation's most highly prized possession.

12. Recalling that the Jordanian Constitution provided for the separation of the legislative, executive and judicial powers, he said that, over the years, the judiciary had acquired a vast amount of experience and expertise, as well as a well-deserved reputation for independence, impartiality, boldness and courage. The firm and successful stand taken by the Court of Cassation declaring unconstitutional a government ban on rallies and public gatherings just before the national elections was but one demonstration of those qualities among the many that he could set before the Committee.

13. The Constitutional Court envisaged in the National Charter had not yet come into being, but most of the powers that such a body might be expected to enjoy had devolved on the Court of Cassation. He cited as an example the authority to abrogate any provision, law or regulation that was deemed unconstitutional. Moreover, article 122 of the Constitution provided that a High Tribunal might interpret the provisions of the Constitution at the request of either House of the National Assembly; any such interpretation was to be implemented upon publication in the Official Gazette.

14. While the independent body foreseen in the National Charter and referred to in question (c) of the list of issues also remained to be established, some of the functions of such a body were being exercised by the High Tribunal to which he had just referred. The recently created Legal Affairs Department in the Office of the Prime Minister had embarked on the modernization and development of Jordanian legislation.

15. Concerning question (d), he said that there had been no case of dismissal of judges during the previous two years. Two judges suspended indefinitely from their functions by decision of the Supreme Council of the Judiciary during their first year of office had unsuccessfully appealed to the Court of Cassation against that decision; they were thus unlikely to obtain tenure.

16. In response to question (e), he said that the abolition of martial law in 1991 had virtually put an end to the state of emergency. One of the most positive consequences had been the abolition of the special courts set up under the authority of the Military Governor General (i.e. the Prime Minister) to hear criminal cases in common law brought by the military authorities; while the Prime Minister had been empowered to endorse, amend or annul the judgements by such courts, there had been no provision for appeal.

17. Other important consequences had been the prohibition of arbitrary arrest and detention by the security forces or administrative authorities (prefectures); abolition of approval by the security forces as a prerequisite of senior appointments in government or business; the removal of travel restrictions; and the reinstatement of civil servants who had been wrongfully dismissed.

18. Clearly, certain constitutional and legal guarantees could no longer be provided during a state of emergency. He confirmed that the new Defence Act of 1992 (question (f)) had been adopted. It empowered the Council of Ministers to declare a state of emergency in the event of war or threat of war, internal strife or conflict, natural disasters or spread of epidemics. Under the provisions of the Act, the duration of the state of emergency need not be specified. Article 4 of the Act gave the Council of Ministers and the

Prime Minister certain prerogatives, namely to take the necessary steps to ensure public safety and the defence of the realm without, however, derogating from the provisions of generally applicable law. It should be noted that the Act could only enter into force at the behest of King Hussein following its proclamation in a royal decree, on the advice of the Council of Ministers.

19. On question (g), following the lifting of the state of emergency and the abolition of military courts, a Court of State Security had been set up by virtue of Act No. 6 of 1993. The Court comprised three civil judges and one military judge and was competent to try crimes against State security committed within Jordanian territory and abroad, as detailed in articles 107-117 and 135-149 of the Jordanian Penal Code; other areas of competence of the Court of State Security included crimes against the protection of State secrets and official documents; forgery; drug offences; violations of the provisions of article 12 of the Explosives Act; violations of article 195 of the Penal Code; and financial and economic crimes. In the Court due process of law was guaranteed. Trials for such offences were held in public and the records of the proceedings and expert and investigation reports were readily available. Accused persons were promptly informed of the charges against them and a list of the charges and witnesses at the trial was published. Access to a defence lawyer was guaranteed and assistance provided by the State for persons of limited financial means. Witnesses for the prosecution could be cross-examined, and all trials were conducted according to the principle that an accused person was innocent until proved guilty. All sentences handed down by the Court of State Security could be appealed against to the Court of Cassation. The latter, comprising at least five judges, after weighing the charges and the evidence available, could amend sentences or even overturn verdicts handed down by the Court of State Security and acquit the accused of the charges.

20. Regarding question (h), on an official level activities were already under way to promote awareness of the provisions of the Covenant. At the request of King Hussein, a committee composed of dignitaries and human rights experts had been set up for that very purpose and had drafted an appropriate bill which was expected shortly to be ratified by the National Assembly. An intensive campaign was also being carried out to educate the general public about human rights issues through national radio and television and inform them of their civil and political rights through round-tables and conferences.

21. On an unofficial level, human rights associations had been set up, including the Jordan Section of the Arab Organization for Human Rights. Its activities included following up of complaints lodged by citizens, publication of articles on human rights violations in Jordan and abroad, and organization of conferences and meetings to promote awareness of human rights issues. Its representatives participated in all regional and international Arab conferences on human rights and visited prisons to report on the conditions of inmates. Authorization had recently been given to open a branch of Amnesty International in Jordan. Furthermore, the political parties were to be commended on their efforts to foster knowledge of human rights questions among the general public.

22. Referring to question (i), he said the fact that none of the three female candidates in the 1989 parliamentary elections had been elected was not

necessarily due to any particular difficulties facing women in Jordanian society. In the eyes of the voters, the three women concerned had not possessed the necessary skills or political experience. It was worthwhile noting that one woman had subsequently been elected to the National Assembly following the 1993 parliamentary elections. Moreover, there were currently two women members on the Council of Notables, and the Ministry of Industry and Commerce was headed by a woman. Jordanian women held key posts and positions of responsibility in many other State institutions as well as in the Jordanian army and police force, which was ample proof of the equality between men and women. Public office was open to suitably qualified women on the same conditions as to men.

23. The CHAIRMAN invited the members of the Committee who so wished to put additional questions in the light of the replies by the representative of Jordan to section I of the list of issues.

24. Mr. AGUILAR URBINA, after welcoming the Jordanian delegation, drew attention to the close affinity between Hispanics and Arabs given their common cultural heritage, in particular with regard to the status of women. In that connection, he expressed surprise that, according to the report, there was no discrimination against women in Jordan, the application of the relevant provisions of the Constitution ensuring total equality of the sexes in all spheres of life. It could not be denied that the situation of women in Jordan had improved significantly of late, as borne out by the recent statistics concerning women in higher education. Nevertheless, he wondered why, despite their high level of education, women currently constituted only some 10 per cent of the national labour force. In that connection, the core document indicated that 68 per cent of applications for posts in the civil service in 1990 had been received from women. He would welcome more information on practical measures being taken to ensure that women played a more active role in society.

25. While he welcomed the suspension of martial law and the drafting of a new Defence Act, he expressed concern regarding the provisions of the Jordanian Constitution governing a state of emergency, namely articles 124 and 125, which, in various respects, ran counter to the principles enshrined in the Covenant. Of even greater concern to him was the act on extinction of responsibility following the suspension of martial law, a type of measure strongly condemned by the Committee in the past in connection with some Latin American countries. He sought details on the scope of the act and inquired who had benefited from it to date.

26. Mrs. EVATT noted that Jordan's ability to implement human rights provisions fully were affected by many factors, such as the economic situation and its reception of large numbers of refugees. The Committee had been provided with a great deal of supplementary information at the current meeting, which reflected Jordan's intention to continue adopting measures to give effect to the rights recognized in the Covenant. However, there were some matters which gave cause for concern. For example, the state of emergency had been lifted, but immunity still appeared to exist for acts committed during that period. The situation was inconsistent with the provisions of the Covenant, which prohibited derogation from certain rights in

any circumstances. If someone had been tortured or subjected to inhuman treatment during the state of emergency, could any measure be taken to punish the perpetrators?

27. With regard to the special courts, she would welcome information concerning the kind and number of cases dealt with. She would also like to know whether any consideration had been given to the possibility of bringing those courts into the ordinary court system. In that connection, she asked what had been the outcome of the case in which a number of journalists had been prosecuted for criticizing those courts.

28. With respect to the question of women's equality, she noted that the National Charter stated that men and women were equal before the law and that there was no distinction between their rights and duties. However, the Constitution did not include sex or gender as one of the grounds of discrimination. That was somewhat disturbing because it appeared that a woman could not rely on the Constitution to challenge an act of discrimination on the grounds of sex. A number of matters of great importance to women still appeared to be subject to religious courts. Some of the religious laws appeared to have provisions which were unequal in their impact, such as inheritance laws which distinguished between sons and daughters, divorce laws, and laws which gave the Islamic husband the right to discipline his wife. She wondered whether that right meant that, in general, the community considered violence against women to be a matter of private concern. Lastly, she asked whether a woman was required to obtain permission from her husband in order to travel abroad or to take their children abroad and, if so, whether that rule applied reciprocally to the husband.

29. Mr. MAVROMMATIS expressed appreciation of the progress being made by Jordan in the field of human rights and welcomed the possibility of maintaining a fruitful dialogue with the Government of that country.

30. He would like to have further information concerning the activities being undertaken in Jordan to promote public awareness of the provisions of the Covenant.

31. Noting that the Martial Law Administrative Instruction No. 2 of 1989 had revoked the competence of military courts to hear certain cases, he said that he would welcome information on the current composition and competence of such courts, with particular regard to offences remaining under their jurisdiction. He also asked for information on the Council of Notables referred to by the delegation.

32. Mr. BRUNI CELLI welcomed the statement by the Government of Jordan in paragraph 4 of its third periodic report to the effect that the Covenant and other instruments ratified by it should be respected and take precedence over its domestic legislation. With regard to the second sentence of the paragraph, he would like to know how public order would be jeopardized by provisions of the Covenant. Referring to the last sentence of the paragraph, he stressed the need for the remaining rights recognized in the Covenant to be embodied in Jordanian legislation as soon as possible so that article 2 of the Covenant could be fully implemented.

33. Mr. BAN said he believed that recent developments in the Middle East, including the agreement between Israel and the Palestine Liberation Organization, would provide an opportunity to enhance the human rights situation in that part of the world.

34. He, too, would welcome further information concerning the second sentence of paragraph 4 of the Jordan report. He wondered whether the statement that the human rights recognized in the Covenant were assured to every Jordanian meant that non-Jordanians were placed in a different situation; if so, such action would be contrary to article 1 of the Covenant.

35. With regard to the status of women, he understood that a woman's testimony in court had only half the value of testimony given by a man. That fact, and the comments made by previous speakers, indicated that the situation concerning equality between the sexes under Jordanian legislation left something to be desired.

36. Mr. HERNDL, referring to the applicability of the Covenant in Jordan, noted from paragraph 4 of the report, that Jordanian courts accorded international conventions precedence over domestic legislative enactments unless public order would be jeopardized thereby. The question had been discussed by the Committee three years previously and the Jordanian representative at the time had said that the proviso was limited to states of emergency or danger threatening the future of the nation. However, article 124 of the Constitution referred to cases of emergency and authorized the issuance of a special law known as the Defence Act by the head of State. Therefore, the King could abrogate any law in force. However, under article 4 of the Covenant, there were a number of obligations that could not be derogated from, even in a state of emergency. Provision had to be made in internal legislation to ensure the necessary safeguards, even in cases of national emergency.

37. With regard to the equality of the sexes, he said that, according to a United States State Department report on the situation of human rights in 1993, women were discriminated against in Jordan in respect of inheritance and the family.

38. Paragraph 5 of the Jordan report was concerned mainly with the political role of women. He recognized the efforts of the Government to accord women the same position as men in political life, but the paragraph in question made no reference to the family or personal status of women.

The meeting rose at 1 p.m.